

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JUDITH ANN LONG
aka JUDITH SHANAHAN
aka JUDITH ANN MCINERNEY
593 Rivera Avenue
Chula Vista, CA 91911

Registered Nurse License No. 296340
Public Health Nurse License No. 27589
Respondent

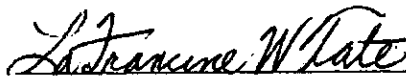
Case No. 2008-12

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on **May 8, 2008.**

IT IS SO ORDERED **April 8, 2008.**



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 ANTOINETTE B. CINCOTTA, State Bar No. 120482
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8 Attorneys for Complainant

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2008-12

13 JUDITH ANN LONG, R.N., aka
14 JUDITH SHANAHAN, aka
JUDITH ANN MCINERNEY
593 Rivera Avenue
15 Chula Vista, CA 91911

OAH No. L2007100094

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Registered Nursing License No. 296340
17 Public Health Nurse License No. 27589

18 Respondent.

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
20 above-entitled proceedings that the following matters are true:

21 PARTIES

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
23 the Board of Registered Nursing. She brought this action solely in her official capacity and is
24 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
25 by Antoinette B. Cincotta, Deputy Attorney General.

26 2. Respondent Judith Ann Long, R.N., aka Judith Shanahan, aka Judith Ann
27 McInerney (Respondent) is representing herself in this proceeding and has chosen not to exercise
28 her right to be represented by counsel.

3. On or about August 31, 1978, the Board of Registered Nursing issued Registered Nursing License No. 296340 to Judith Ann Long, R.N., aka Judith Shanahan, aka Judith Ann McInerney (Respondent). The registered nursing license was in full force and effect at all times relevant to the charges brought in Accusation No. 2008-12 and will expire on April 30, 2008, unless renewed.

4. On or about November 21, 1978, the Board of Registered Nursing issued Public Health Nurse License No. 27589 to Respondent. The public health nurse license was in full force and effect at all times relevant to the charges brought in Accusation No. 2008-12 and will expire on April 30, 2010, unless renewed.

JURISDICTION

5. On or about July 9, 2007, Accusation No. 2008-12 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 16, 2007. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2008-12 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2008-12. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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1 8. Respondent voluntarily, knowingly, and intelligently waives and gives up
2 each and every right set forth above.

3 CULPABILITY

4 9. Respondent admits the truth of each and every charge and allegation in
5 Accusation No. 2008-12.

6 10. Respondent agrees that her registered nursing license and public health
7 nurse license are subject to discipline and she agrees to be bound by the Board of Registered
8 Nursing (Board) 's imposition of discipline as set forth in the Disciplinary Order below.

9 CONTINGENCY

10 11. This stipulation shall be subject to approval by the Board of Registered
11 Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the
12 Board of Registered Nursing may communicate directly with the Board regarding this stipulation
13 and settlement, without notice to or participation by Respondent. By signing the stipulation,
14 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
15 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
16 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
17 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
18 between the parties, and the Board shall not be disqualified from further action by having
19 considered this matter.

20 12. The parties understand and agree that facsimile copies of this Stipulated
21 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
22 force and effect as the originals.

23 13. In consideration of the foregoing admissions and stipulations, the parties
24 agree that the Board may, without further notice or formal proceeding, issue and enter the
25 following Disciplinary Order:

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Registered Nursing License No. 296340 issued
3 to Respondent Judith Ann Long, R.N., aka Judith Shanahan, aka Judith Ann McInerney
4 (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on
5 probation for three (3) years on the following terms and conditions.

6 **Severability Clause.** Each condition of probation contained herein is a separate
7 and distinct condition. If any condition of this Order, or any application thereof, is declared
8 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
9 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
10 and enforceable to the fullest extent permitted by law.

11 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
12 A full and detailed account of any and all violations of law shall be reported by Respondent to
13 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
14 compliance with this condition, Respondent shall submit completed fingerprint forms and
15 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
16 as part of the licensure application process.

17 **Criminal Court Orders:** If Respondent is under criminal court orders, including
18 probation or parole, and the order is violated, this shall be deemed a violation of these probation
19 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

20 2. **Comply with the Board's Probation Program.** Respondent shall fully
21 comply with the conditions of the Probation Program established by the Board and cooperate
22 with representatives of the Board in its monitoring and investigation of the Respondent's
23 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
24 within no more than 15 days of any address change and shall at all times maintain an active,
25 current license status with the Board, including during any period of suspension.

26 Upon successful completion of probation, Respondent's license shall be fully
27 restored.

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1 3. **Report in Person.** Respondent, during the period of probation, shall
2 appear in person at interviews/meetings as directed by the Board or its designated
3 representatives.

4 4. **Residency, Practice, or Licensure Outside of State.** Periods of
5 residency or practice as a registered nurse outside of California shall not apply toward a reduction
6 of this probation time period. Respondent's probation is tolled, if and when she resides outside
7 of California. Respondent must provide written notice to the Board within 15 days of any change
8 of residency or practice outside the state, and within 30 days prior to re-establishing residency or
9 returning to practice in this state.

10 Respondent shall provide a list of all states and territories where she has ever been
11 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
12 provide information regarding the status of each license and any changes in such license status
13 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
14 new nursing license during the term of probation.

15 5. **Submit Written Reports.** Respondent, during the period of probation,
16 shall submit or cause to be submitted such written reports/declarations and verification of actions
17 under penalty of perjury, as required by the Board. These reports/declarations shall contain
18 statements relative to Respondent's compliance with all the conditions of the Board's Probation
19 Program. Respondent shall immediately execute all release of information forms as may be
20 required by the Board or its representatives.

21 Respondent shall provide a copy of this Decision to the nursing regulatory agency
22 in every state and territory in which she has a registered nurse license.

23 6. **Function as a Registered Nurse.** Respondent, during the period of
24 probation, shall engage in the practice of registered nursing in California for a minimum of 24
25 hours per week for 6 consecutive months or as determined by the Board.

26 For purposes of compliance with the section, "engage in the practice of registered
27 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
28 work in any non-direct patient care position that requires licensure as a registered nurse.

1 The Board may require that advanced practice nurses engage in advanced practice
2 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
3 Board.

4 If Respondent has not complied with this condition during the probationary term,
5 and Respondent has presented sufficient documentation of her good faith efforts to comply with
6 this condition, and if no other conditions have been violated, the Board, in its discretion, may
7 grant an extension of Respondent's probation period up to one year without further hearing in
8 order to comply with this condition. During the one year extension, all original conditions of
9 probation shall apply.

10 **7. Employment Approval and Reporting Requirements.** With the
11 exception identified in Condition 9 below, "Employment Limitations," Respondent shall obtain
12 prior approval from the Board before commencing or continuing any employment, paid or
13 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
14 performance evaluations and other employment related reports as a registered nurse upon request
15 of the Board.

16 Respondent shall provide a copy of this Decision to her employer and immediate
17 supervisors *prior to commencement of any nursing or other health care related employment.*

18 In addition to the above, Respondent shall notify the Board in writing within
19 seventy-two (72) hours after she obtains any nursing or other health care related employment.
20 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
21 terminated or separated, regardless of cause, from any nursing, or other health care related
22 employment with a full explanation of the circumstances surrounding the termination or
23 separation.

24 **8. Supervision.** Respondent shall obtain prior approval from the Board
25 regarding Respondent's level of supervision and/or collaboration before commencing or
26 continuing any employment as a registered nurse, or education and training that includes patient
27 care.

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1 Respondent shall practice only under the direct supervision of a registered nurse
2 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
3 methods of supervision and/or collaboration (c.g., with an advanced practice nurse or physician)
4 are approved.

5 Respondent's level of supervision and/or collaboration may include, but is not
6 limited to the following:

7 (a) Maximum - The individual providing supervision and/or collaboration is
8 present in the patient care area or in any other work setting at all times.

9 (b) Moderate - The individual providing supervision and/or collaboration is in
10 the patient care unit or in any other work setting at least half the hours Respondent works.

11 (c) Minimum - The individual providing supervision and/or collaboration has
12 person-to-person communication with Respondent at least twice during each shift worked.

13 (d) Home Health Care - If Respondent is approved to work in the home health
14 care setting, the individual providing supervision and/or collaboration shall have person-to-
15 person communication with Respondent as required by the Board each work day. Respondent
16 shall maintain telephone or other telecommunication contact with the individual providing
17 supervision and/or collaboration as required by the Board during each work day. The individual
18 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
19 site visits to patients' homes visited by Respondent with or without Respondent present.

20 9. **Employment Limitations.** Respondent shall not work for a nurse's
21 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
22 traveling nurse, or for an in-house nursing pool.

23 Respondent shall not work for a licensed home health agency as a visiting nurse
24 unless the registered nursing supervision and other protections for home visits have been
25 approved by the Board. Respondent shall not work in any other registered nursing occupation
26 where home visits are required.

27 Respondent shall not work in any health care setting as a supervisor of registered
28 nurses. However, Respondent may continue working in the position of program manager at

1 Adventist Health, where she is employed as a program manager supervising licensed vocational
2 nurses and/or unlicensed assistive personnel. Should respondent intend to change positions at
3 Adventist Health or change employers, such change of position or change of employers must
4 have prior approval from the Board, as required in condition 7, "Employment Approval and
5 Reporting Requirements." Any change of positions or change of employers where there will be
6 supervision of licensed vocational nurses or unlicensed assistive personnel shall also have prior
7 approval of the Board.

8 Respondent shall not work as a faculty member in an approved school of nursing
9 or as an instructor in a Board approved continuing education program.

10 Respondent shall work only on a regularly assigned, identified and predetermined
11 worksite(s) and shall not work in a float capacity.

12 If Respondent is working or intends to work in excess of 40 hours per week, the
13 Board may request documentation to determine whether there should be restrictions on the hours
14 of work.

15 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
16 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
17 than six months prior to the end of her probationary term.

18 Respondent shall obtain prior approval from the Board before enrolling in the
19 course(s). Respondent shall submit to the Board the original transcripts or certificates of
20 completion for the above required course(s). The Board shall return the original documents to
21 Respondent after photocopying them for its records.

22 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
23 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
24 amount of \$3,634.00. Respondent shall be permitted to pay these costs in a payment plan
25 approved by the Board, with payments to be completed no later than three months prior to the
26 end of the probation term.

27 If Respondent has not complied with this condition during the probationary term,
28 and Respondent has presented sufficient documentation of her good faith efforts to comply with

1 this condition, and if no other conditions have been violated, the Board, in its discretion, may
2 grant an extension of Respondent's probation period up to one year without further hearing in
3 order to comply with this condition. During the one year extension, all original conditions of
4 probation will apply.

5 12. **License Surrender.** During Respondent's term of probation, if she ceases
6 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
7 probation, Respondent may surrender her license to the Board. The Board reserves the right to
8 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
9 take any other action deemed appropriate and reasonable under the circumstances, without
10 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
11 will no longer be subject to the conditions of probation.

12 Surrender of Respondent's license shall be considered a disciplinary action and
13 shall become a part of Respondent's license history with the Board. A registered nurse whose
14 license has been surrendered may petition the Board for reinstatement no sooner than the
15 following minimum periods from the effective date of the disciplinary decision:

16 (1) Two years for reinstatement of a license that was surrendered for any
17 reason other than a mental or physical illness; or

18 (2) One year for a license surrendered for a mental or physical illness.

19 13. **Physical Examination.** Within 45 days of the effective date of this
20 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
21 physician assistant, who is approved by the Board before the assessment is performed, submit an
22 assessment of the Respondent's physical condition and capability to perform the duties of a
23 registered nurse, including a determination as set forth in Condition 15 below, "Rule-Out
24 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to
25 the Board. If medically determined, a recommended treatment program will be instituted and
26 followed by the Respondent with the physician, nurse practitioner, or physician assistant
27 providing written reports to the Board on forms provided by the Board.

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1 If Respondent is determined to be unable to practice safely as a registered nurse,
2 the licensed physician, nurse practitioner, or physician assistant making this determination shall
3 immediately notify the Board and Respondent by telephone, and the Board shall request that the
4 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
5 shall immediately cease practice and shall not resume practice until notified by the Board.
6 During this period of suspension, Respondent shall not engage in any practice for which a license
7 issued by the Board is required until the Board has notified Respondent that a medical
8 determination permits Respondent to resume practice. This period of suspension will not apply
9 to the reduction of this probationary time period.

10 If Respondent fails to have the above assessment submitted to the Board within
11 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
12 practice until notified by the Board. This period of suspension will not apply to the reduction of
13 this probationary time period. The Board may waive or postpone this suspension only if
14 significant, documented evidence of mitigation is provided. Such evidence must establish good
15 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
16 provided. Only one such waiver or extension may be permitted.

17 **14. Mental Health Examination.** Respondent shall, within 45 days of the
18 effective date of this Decision, have a mental health examination including psychological testing
19 as appropriate to determine her capability to perform the duties of a registered nurse, including a
20 determination as set forth in Condition 15 below, "Rule-Out Substance Abuse Assessment." The
21 examination will be performed by a psychiatrist, psychologist or other licensed mental health
22 practitioner approved by the Board. The examining mental health practitioner will submit a
23 written report of that assessment and recommendations to the Board. All costs are the
24 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
25 result of the mental health examination will be instituted and followed by Respondent.

26 If Respondent is determined to be unable to practice safely as a registered nurse,
27 the licensed mental health care practitioner making this determination shall immediately notify
28 the Board and Respondent by telephone, and the Board shall request that the Attorney General's

1 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
2 practice and may not resume practice until notified by the Board. During this period of
3 suspension, Respondent shall not engage in any practice for which a license issued by the Board
4 is required, until the Board has notified Respondent that a mental health determination permits
5 Respondent to resume practice. This period of suspension will not apply to the reduction of this
6 probationary time period.

7 If Respondent fails to have the above assessment submitted to the Board within
8 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
9 practice until notified by the Board. This period of suspension will not apply to the reduction of
10 this probationary time period. The Board may waive or postpone this suspension only if
11 significant, documented evidence of mitigation is provided. Such evidence must establish good
12 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
13 provided. Only one such waiver or extension may be permitted.

14 **15. Rule-Out Substance Abuse Assessment.** If the examiner conducting the
15 physical and/or mental health examination determines that the respondent is dependent upon
16 drugs or alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or
17 alcohol dependence in remission) that might reasonably affect the safe practice of nursing, then
18 the respondent must further comply with the following additional terms and conditions of
19 probation.

20 **(A) Participate in Treatment/Rehabilitation Program for Chemical Dependence -**
21 Respondent, at his/her expense, shall successfully complete during the probationary period or
22 shall have successfully completed prior to commencement of probation a Board-approved
23 treatment/rehabilitation program of at least six months duration. As required, reports shall be
24 submitted by the program on forms provided by the Board. If respondent has not completed a
25 Board-approved treatment/rehabilitation program prior to commencement of probation,
26 respondent, within 45 days from the effective date of the decision, shall be enrolled in a program.
27 If a program is not successfully completed within the first nine months of probation, the Board
28 shall consider respondent in violation of probation.

1 Based on Board recommendation, each week respondent shall be required to
2 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
3 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
4 by the Board. If a nurse support group is not available, an additional 12-step meeting or
5 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
6 such attendance to the Board during the entire period of probation. Respondent shall continue
7 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
8 mental health examiner and/or other ongoing recovery groups.

9 (B) Abstain from use of Psychotropic (Mood-Altering) Drugs - Respondent shall
10 completely abstain from the possession, injection or consumption by any route of all
11 psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a
12 health care professional legally authorized to do so as part of documented medical treatment.
13 Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the
14 prescribing health professional, a report identifying the medication, dosage, the date the
15 medication was prescribed, the respondent's prognosis, the date the medication will no longer be
16 required, and the effect on the recovery plan, if appropriate.

17 Respondent shall identify for the Board a single physician, nurse practitioner or
18 physician assistant who shall be aware of respondent's history of substance abuse and will
19 coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled
20 substances or mood-altering drugs. *The coordinating physician, nurse practitioner, or physician*
21 *assistant shall report to the Board on a quarterly basis respondent's compliance with this*
22 *condition. If any substances considered addictive have been prescribed, the report shall identify a*
23 *program for the time limited use of any such substances.*

24 The Board may require the single coordinating physician, nurse practitioner, or
25 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
26 addictive medicine.

27 (C) Submit to Tests and Samples - Respondent, at his/her expense, shall
28 participate in a random, biological fluid testing or a drug screening program which the Board

1 approves. The length of time and frequency will be subject to approval by the Board. The
2 respondent is responsible for keeping the Board informed of respondent's current telephone
3 number at all times. Respondent shall also ensure that messages may be left at the telephone
4 number when he/she is not available and ensure that reports are submitted directly by the testing
5 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to
6 the Board by the program and the respondent shall be considered in violation of probation.

7 In addition, respondent, at any time during the period of probation, shall fully
8 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
9 tests and samples as the Board or its representatives may require for the detection of alcohol,
10 narcotics, hypnotics, dangerous drugs, or other controlled substances.

11 If respondent has a positive drug screen for any substance not legally authorized
12 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
13 Board files a petition to revoke probation or an accusation, the Board may suspend respondent
14 from practice pending the final decision on the petition to revoke probation or the accusation.
15 This period of suspension will not apply to the reduction of this probationary time period.
16 If respondent fails to participate in a random, biological fluid testing or drug screening program
17 within the specified time frame, the respondent shall immediately cease practice and shall
18 not resume practice until notified by the Board. After taking into account documented evidence
19 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board
20 may suspend respondent from practice pending the final decision on the petition to revoke
21 probation or the accusation. This period of suspension will not apply to the reduction of this
22 probationary time period.

23 (D) Therapy or Counseling Program - Respondent, at his/her expense, shall
24 participate in an on-going counseling program until such time as the Board releases him/her from
25 this requirement and only upon the recommendation of the counselor. Written progress reports
26 from the counselor will be required at various intervals.

27 16. **Violation of Probation.** If Respondent violates the conditions of her
28 probation, the Board after giving Respondent notice and an opportunity to be heard, may set


1 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's
2 license.

3 If during the period of probation, an accusation or petition to revoke probation has
4 been filed against Respondent's license or the Attorney General's Office has been requested to
5 prepare an accusation or petition to revoke probation against Respondent's license, the
6 probationary period shall automatically be extended and shall not expire until the accusation or
7 petition has been acted upon by the Board.

8 ACCEPTANCE

9 I have carefully read the Stipulated Settlement and Disciplinary Order. I
10 understand the stipulation and the effect it will have on my registered nursing license. I enter
11 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,
12 and agree to be bound by the Decision and Order of the Board of Registered Nursing.

13 DATED: 04 02 08.

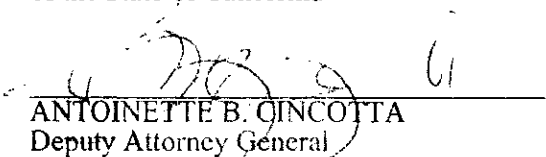
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15 
16 Judith Ann Long, R.N.
17 aka. Judith Shanahan, aka Judith Ann McInerney
Respondent

18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
21 Affairs.

22 DATED: 4/7/2008

23 EDMUND G. BROWN JR., Attorney General
24 of the State of California

25 
26 ANTOINETTE B. QINCOTTA
Deputy Attorney General

27 Attorneys for Complainant
28

Exhibit A
Accusation No. 2008-12

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA SCHNEIDER
Supervising Deputy Attorney General
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8 Attorneys for Complainant
9

10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2008-12

14 JUDITH ANN LONG, RN, a.k.a.
JUDITH ANN SHANAHAN, a.k.a.
15 JUDITH ANN MCINERNEY, a.k.a.
JUDITH ANN SPRATT
16 593 Rivera Avenue
Chula Vista, CA 91911-5650

ACCUSATION

17 Registered Nurse License No. 296340
18 Public Health Nurse License No. 27589

19 Respondent.
20

21 Complainant alleges:

22 **PARTIES**

23 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
24 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
25 Department of Consumer Affairs.

26 2. On or about January 1, 1978, the Board of Registered Nursing issued
27 Registered Nurse License Number RN296340 to JUDITH ANN LONG, aka JUDITH ANN
28 SHANAHAN, JUDITH ANN MCINERNEY, and JUDITH ANN SPRATT (Respondent). The

1 Registered Nurse license was in full force and effect at all times relevant to the charges brought
2 herein, and will expire on April 30, 2008.

3 3. On or about November 21, 1978, the Board of Registered Nursing issued
4 Public Health Nurse License Number 27589 to JUDITH ANN LONG, aka JUDITH ANN
5 SHANAHAN, JUDITH ANN McINERNEY, and JUDITH ANN SPRATT (Respondent). The
6 Public Health Nurse license was in full force and effect at all times relevant to the charges
7 brought herein, and will expire on April 30, 2008.

8 JURISDICTION

9 4. This Accusation is brought before the Board of Registered Nursing
10 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
11 references are to the Business and Professions Code unless otherwise indicated.

12 5. Section 2750 of the Business and Professions Code ("Code") provides, in
13 pertinent part, that the Board may discipline any licensee, including a licensee holding a
14 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
15 2750) of the Nursing Practice Act.

16 6. Section 2761, provides in pertinent part,

17 "The board may take disciplinary action against a certified or licensed nurse or
18 deny an application for a certificate or license for any of the following:

19 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

20 "(1) Incompetence, or gross negligence in carrying out usual certified or licensed
21 nursing functions."

22 7. Section 2762 of the Code states, in pertinent part:

23 "In addition to other acts constituting unprofessional conduct within the meaning
24 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
25 under this chapter to do any of the following:

26 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
27 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
28 or administer to another, any controlled substance as defined in Division 10 (commencing with

1 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
2 defined in Section 4022.”

3 8. Health and Safety Code section 11173 provides in pertinent part:

4 “(a) No person shall obtain or attempt to obtain controlled substances, or procure
5 or attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
6 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

7 “(b) No person shall make a false statement in any prescription, order, report, or
8 record, required by this division.”

9 9. Section 125.3 of the Code provides, in pertinent part, that the Board may
10 request the administrative law judge to direct a licensee found to have committed a violation or
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
12 and enforcement of the case.

13 CONTROLLED SUBSTANCE AT ISSUE

14 10. “Morphine” is a Schedule II controlled substance as designated by Health
15 and Safety Code section 11055, subsection (1)(M), and a dangerous drug per Business and
16 Professions Code section 4022(c).

17 11. “Dilaudid,” also known by its generic name Hydromorphone, is a
18 Schedule II controlled substance pursuant to Health and Safety Code section 11055(b)(1)(k), and
19 a dangerous drug per Business and Professions Code section 4022.

20 FIRST CAUSE FOR DISCIPLINE

21 **(Unprofessional Conduct - Gross Negligence and/or Incompetence, January 26-27,2005)**

22 12. Respondent is subject to disciplinary action under section 2761,
23 subdivision (a)(1), on the grounds of unprofessional conduct, as defined by section 2762,
24 subdivision (a), in that Respondent engaged in gross negligence and/or incompetence. The facts
25 and circumstances are set forth below:

26 13. Between on or about January 26, 2005, and January 27, 2005, while
27 working the night shift (1900-0700) as a registered nurse in the Emergency Room at Sharp Chula
28

1 Vista Medical Center, in Chula Vista, California (hereinafter "SCVMC"), Respondent did not
2 properly account for 18-mg of Morphine.

3 a. **SCVMC Patient #1:** Respondent removed but did not administer 10-mg of
4 Morphine from the Pyxis for Patient #1, a patient not assigned to her. There was an order for
5 Morphine for Patient #1. However, the assigned nurse S. had already drawn and administered
6 this medication. For this same patient, the assigned nurse S. removed Diauid 2-mg at 2247 and
7 documented the administration of Diauid at 2248 pursuant to physician's orders. Respondent
8 wasted two separate 1-mg units of Diauid from a 2-mg vial at 0345 which she requested
9 witnessed by Charge Nurse F.

10 b. **SCVMC Patient #2:** Respondent removed 10-mg of Morphine at 1942 for
11 Patient #2, a patient not assigned to her. Respondent "wasted" 6-mg of Morphine for Patient #2,
12 at 0347.

13 c. **SCVMC Patient #3:** Respondent removed 10-mg of Morphine from the Pyxis
14 for Patient #3 at 0017 hours, after the patient was discharged at 2306 hours. Respondent wasted
15 6-mg of Morphine for Patient #3 at 0347.

16 14. Respondent admitted that she had been very "sloppy" in her
17 documentation of medication administration. Respondent admitted she did not properly
18 document verbal orders given by the physicians in the patient records. She admitted deviating
19 from hospital policy regarding medication administration by practicing what she called
20 "Anticipatory Nursing." This meant that Respondent would pre-draw medications in case the
21 physician ordered another dose to be given immediately. Respondent also admitted that she did
22 not properly document wasting medications.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct - Diversion/Possession**
25 **of Controlled Substances, January 26 - 27, 2005)**

26 15. Respondent is subject to disciplinary action under section 2761,
27 subdivision (a)(1), on the grounds of unprofessional conduct, as defined by section 2762,
28 subdivision (a), in that Respondent unlawfully obtained or possessed Morphine, a dangerous

1 drug as defined in Section 4022, as set forth in paragraphs 13 through 14, which are incorporated
2 herein by this reference.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct - Obtaining or Attempting to Obtain Controlled Substances**
5 **By Fraud, Deceit, Misrepresentation or Concealment, January 26 - 27, 2005)**

6 16. Respondent is subject to disciplinary action under Health and Safety Code
7 section 11173, subdivision (a) and/or (b) in that she obtained or attempted to obtain a controlled
8 substance, Morphine, by fraud, deceit, misrepresentation or concealment as set forth in
9 paragraphs 13 through 14, which are incorporated herein by this reference. Respondent diverted
10 Morphine from patients assigned to other nurses. Respondent withdrew various quantities of
11 Morphine for patients without physicians' orders authorizing the medication for the patients, and
12 recorded wasting medications she had no physicians orders to dispense and/or did not account for
13 administering same.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct - Diversion of Controlled Substances,**
16 **February 14, 2005 - March 1, 2005)**

17 17. Respondent is subject to disciplinary action under section 2761,
18 subdivision (a)(1), on the grounds of unprofessional conduct, as defined by section 2762,
19 subdivision (a), in that Respondent unlawfully obtained or possessed Morphine and/or Dilaudid,
20 dangerous drugs as defined in Section 4022. The facts and circumstances are set forth below:

21 18. Between on or about February 14, 2005, and March 1, 2005, while
22 working the night shift as a registered nurse at the Emergency Department in Scripps Memorial
23 Hospital, Encinitas, California (hereinafter "SMH"), Respondent diverted Dilaudid and/or
24 Morphine as follows:

25 a. **SMH Patient #1:** On February 14, 2005 at 2056, Respondent withdrew 2-
26 mgs of Dilaudid from the Pyxis for SMH Patient #1. Respondent charted in the Medication
27 Administration Record that she administered 1-mg of Dilaudid to SMH Patient #1 at 2100.
28 Respondent recorded in the Pyxis records that she wasted 1-mg of Dilaudid on February 15, 2005

1 at 0520, over eight hours after she withdrew this medication. At 2230, Respondent withdrew 2-
2 mgs of Dilaudid from the Pyxis. Respondent charted in the Medication Administration Record
3 that she administered 1-mg of Dilaudid to SMH Patient #1 at 2255. Respondent recorded in the
4 Pyxis records that she wasted 1-mg of Dilaudid on February 15, 2005 at 0521, over eight hours
5 after she withdrew this medication.

6 b. **SMH Patient #2:** On February 14, 2005 at 2012, Respondent withdrew 2-
7 mgs of Dilaudid for SMH Patient #2. There was no physician's order for Dilaudid for this
8 patient. Respondent did not chart the administration of the 2-mgs of Dilaudid to SMH Patient #2
9 in the Medication Administration Record. Respondent recorded in the Pyxis records that she
10 wasted 2-mgs of Dilaudid on February 15, 2005 at 0519, over nine hours after she withdrew this
11 medication.

12 c. **SMH Patient #3:** On February 15, 2005 at 0259, Respondent withdrew 2-
13 mgs of Dilaudid for SMH Patient #3. There was no physician's order for Dilaudid for this
14 patient. Respondent charted in the Medication Administration Record that she administered 1-
15 mg of Dilaudid to SMH Patient #3 at 0300. Respondent recorded in the Pyxis records that she
16 wasted 1-mg of Dilaudid on February 15, 2005 at 0521, over two hours after she withdrew this
17 medication.

18 d. **SMH Patient #4:** On February 16, 2005 at 2000, Respondent withdrew 2-
19 mgs of Dilaudid for SMH Patient #4. There was a physician's order for Dilaudid for this patient,
20 which was administered by another nurse at 1503. Respondent did not chart in the Medication
21 Administration Record that she administered the 2-mgs of Dilaudid to SMH Patient #4. There is
22 no Pyxis record of Respondent ever wasting the 2-mgs of Dilaudid. Respondent could not
23 explain what happened to the missing 2-mgs of Dilaudid.

24 e. **SMH Patient #5:** On February 16, 2005 at 2202, Respondent withdrew 2-
25 mgs of Dilaudid for SMH Patient #5. There was no physician's order for Dilaudid for this
26 patient. Respondent did not chart in the Medication Administration Record that she administered
27 the 2-mgs of Dilaudid to SMH Patient #5. Respondent recorded in the Pyxis records that she

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1 wasted 1-mg of Dilaudid on February 17, 2005 at 0526. Respondent could not explain what
2 happened to the missing 1-mg of Dilaudid.

3 f. **SMH Patient #6:** On February 17, 2005 at 0224, Respondent withdrew 2-
4 mgs of Dilaudid for SMH Patient #6, and at 0455 withdrew 2-mgs of Dilaudid for the same
5 patient. Respondent charted in the Medication Administration Record that she administered 1-
6 mg of Dilaudid to SMH Patient #6 at 0230 and 1-mg of Dilaudid to the same patient at 0500.
7 Respondent recorded in the Pyxis records that she wasted 1-mg of Dilaudid on February 17, 2005
8 at 0526.

9 g. **SMH Patient #7:** On February 23, 2005 at 1938, Respondent withdrew 2-
10 mgs of Dilaudid for SMH Patient #7, and at 2038 withdrew 2-mgs of Dilaudid for the same
11 patient. There was no physician's order for Dilaudid for SMH Patient #7. Respondent did not
12 chart in the Medication Administration Record that she administered the 2-mgs of Dilaudid to
13 SMH Patient #7. Respondent recorded in the Pyxis records that she wasted 1-mg of Dilaudid on
14 February 24, 2005 at 0322. Respondent recorded in the Pyxis records that she wasted 1-mg of
15 Dilaudid on February 24, 2005 at 0323. Respondent had no explanation for the missing 2-mg of
16 Dilaudid.

17 h. **SMH Patient #8:** On February 24, 2005 at 0332, Respondent withdrew 2-
18 mgs of Dilaudid for SMH Patient #8. There was no physician's order for Dilaudid for SMH
19 Patient #8. Respondent did not chart in the Medication Administration Record that she
20 administered the 2-mgs of Dilaudid to SMH Patient #8. There is no Pyxis record of Respondent
21 ever wasting the 2-mgs of Dilaudid.

22 i. **SMH Patient #9:** On February 23 2005 at 2153, Respondent withdrew 10-
23 mgs of Morphine for SMH Patient #9, and at 2302, withdrew another 4-mgs of Morphine for
24 SMH Patient #9. Respondent charted in the Medication Administration Record that she
25 administered 4-mgs of Morphine to SMH Patient #9 at 2150, and at 2350 she administered 2-
26 mgs to the same patient. Respondent recorded in the Pyxis records that she wasted 6-mg of
27 Morphine on February 24, 2005 at 0324 and 2-mgs of Morphine at 0324. Respondent stated that
28 she did not know why she did that.

j. **SMH Patient #10:** On February 28, 2005 at 1931, Respondent withdrew 2-mgs of Dilaudid for SMH Patient #10. There was no physician's order for Dilaudid for SMH Patient #10. Respondent did not chart in the Medication Administration Record that she ever administered the 2-mgs of Dilaudid to SMH Patient #10. Respondent did not record in the Pyxis records that she wasted the 2-mgs of Dilaudid. Respondent did not have any explanation for the 2-mgs of missing Dilaudid.

k. **SMH Patient #11:** On February 28, 2005 at 2025, Respondent withdrew 2-mgs of Dilaudid for SMH Patient #11. There was no physician's order for Dilaudid for SMH Patient #11. Respondent did not chart in the Medication Administration Record that she ever administered the 2-mgs of Dilaudid to SMH Patient #11. Respondent did not record in the Pyxis records that she wasted the 2-mgs of Dilaudid. Respondent did not have any explanation for the 2-mgs of missing Dilaudid.

l. **SMH Patient #12:** On February 28, 2005 at 2129, Respondent withdrew 2-mgs of Dilaudid for SMH Patient #12. Respondent charted in the Medication Administration Record that she administered 1-mg of Dilaudid to SMH Patient #12 at 2140. Respondent recorded in the Pyxis records that she wasted 1-mg of Dilaudid at 0453.

m. **SMH Patient #13:** On March 1, 2005 at 0214, Respondent withdrew 10-mgs of Morphine for SMH Patient #13. There was no physician's order for Morphine for SMH Patient #13. Respondent did not chart in the Medication Administration Record that she ever administered any Morphine for SMH Patient #13. Respondent recorded in the Pyxis records that she wasted 10-mgs of Morphine at 0453.

19. Respondent admitted that she drew more medications than she needed for a patient, "I take 3-4 vials and if I don't use it, I will waste it." Respondent admitted that she would keep narcotics up to 8 hours and then waste it, "I've done this forever."

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct -Obtaining or Attempting to Obtain Controlled Substances**

3 **By Fraud, Deceit, Misrepresentation or Concealment,**

4 **February 14, 2005 - March 1, 2005)**

5 20. Respondent is subject to disciplinary action under Health and Safety Code
6 section 11173, subdivision (a) and/or (b) in that she obtained or attempted to obtain a controlled
7 substances, Morphine and/or Dilaudid, by fraud, deceit, misrepresentation or concealment as set
8 forth in paragraphs 17 through 19, which are incorporated herein by this reference. Respondent
9 withdrew various quantities of Morphine and/or Dilaudid for patients without physicians' orders
10 authorizing the medication for the patients, recorded wasting medications she had no physicians
11 orders to dispense and/or did not account for administering same, and did not account for 11-mg
12 of missing Dilaudid.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein
15 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

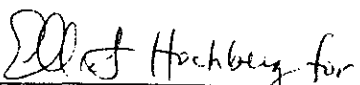
16 1. Revoking or suspending Registered Nurse Number RN296340, issued to
17 Judith Ann Long, aka Judith Ann Shanahan, aka Judith Ann McInerney, aka Judith Ann Spratt;

18 2. Revoking or suspending Public Health Nurse License No. 27589, issued to
19 Judith Ann Long, aka Judith Ann Shanahan, aka Judith Ann McInerney, aka Judith Ann Spratt;

20 3. Ordering Respondent to pay the Board of Registered Nursing the
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
22 Professions Code section 125.3;

23 4. Taking such other and further action as deemed necessary and proper.

24 DATED: 7/9/07

25 
26 Ruth Ann Terry, M.P.H., R.N.
27 Executive Officer
28 Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant